

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JOEY LEE MARKHAM,

Petitioner,

vs.

ATTORNEY GENERAL OF THE STATE  
 OF NEVADA,

Respondents.

3:07-cv-00088-HDM-RAM

**ORDER**

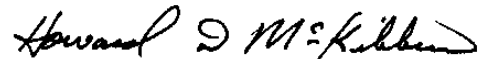
Petitioner filed with the court a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (#2). The court conducted a preliminary review to determine whether the petition had been filed outside the one-year statute of limitations period prescribed by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 28 U.S.C. § 2244 (#4). The court determined that the statute of limitations began to run on November 27, 2004, thirty days after petitioner's conviction in the Nevada state trial court. Petitioner's state post-conviction proceeding did not toll the filing date for petitioner's federal petition as the Nevada Supreme Court affirmed the trial court's finding that his state petition had been untimely filed. Petitioner submitted his habeas petition to this court on February 2, 2007, well over two years from the time the statute of limitations began to run. In its February 14, 2008 order, this court granted petitioner 60 days to file points and authorities, along with any relevant evidence, demonstrating that his federal habeas petition was not untimely filed, or

1 that he was entitled to equitable tolling for his petition as a result of some extraordinary circumstance  
2 beyond his control. That time has expired, and petitioner failed to respond to the court's order.

3 The court therefore finds that petitioner's petition for a writ of habeas corpus is untimely filed  
4 pursuant to the applicable statute of limitations outlined in AEDPA, 28 U.S.C. § 2244(d)(1), and is  
5 therefore dismissed without prejudice.

6 **IT IS SO ORDERED.**

7 Dated, this 28th day of April, 2008.

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9 UNITED STATES DISTRICT JUDGE  
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